

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26464 of 2007(A)

AGAINST THE ORDER DATED 17/03/2007 IN IA.264/2007 IN
OS.357/1997 of MUNSIFF COURT, TIRUR

PETITIONER:

KARANTHUR MARKKAZ SAKHAFATH SUNNIYYA BY
ITS SECRETARY, A.P.ABOOBACKER MUSALIYAR, 56 YEARS,
S/O AHAMMED HAJI, KOZHIKODE TALUK,
KUNNAMANGALAM AMSOM, KARANTHUR DESOM.

BY ADV. SRI.K.RAMACHANDRAN
SMT.R.MEERA

RESPONDENTS:

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- 1. THE CHURCH OF SOUTH INDIA TRUST**
ASSOCIATION MADRAS(CHENNAI) REGISTERED OFFICE BY
ATTORNEYSS RT.REV.DR.P.G.KURUVILA,C.S.I.NORTH
KERALA DIOUSE BISHOP,SHORNUR P.O.,SUBSTITUTED BY
RT.REV.DR. GEORGE ISSAC, S/O.P.K.ISSAC,BISHOP,
C.S.I. NORTH, KERALA DIOUESE.
 - 2. EDWIN SADANANDAN, 68 YEARS,**
S/O.JOSEPH SADANANDAN, KALATHUMKUNNU AMSOM DESOM,
KOZHIKODE TALUK, SUBSTITUTED BY
REV.GEORGE NINAN, S/O LATE P.N.GEORGE, DIOUSIAN
TREASURER, NORTH KERALA DIOUESES, C.S.I. DIOUSEAN
OFFICE, SHORNUR.
 - 3. V.HARIDAS, 55 YEARS, S/O.HARIDAS MENON,**
PONNANI TALUK, EZHUVATHIRUTHI AMSOM DESOM.
 - 4. U.V.CHANDRASEKHARA MENON, 69 YEARS,**
S/O RAGHAVA MENON, THALAKAD AMSOM, MANGATTIRI DESOM.
 - 5. PUPARAMBIL KUNHU MUHAMMED, 58 YEARS,**
S/O MOIDEENKUTTY @ BAPPU, THIRUNAVAYA AMSOM DESOM.
 - 6. UNNIYALUKKAL ABOOBACKER,**
69 YEARS, S/O KUNHALANKUTTY HAJI,
THIRUNAVAYA AMSOM, EDAKULAM DESOM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.26464 OF 2007

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Dated this the 5th day of September 2007

JUDGMENT

This writ petition is filed challenging the order of the Munsiff's Court, Tirur in I.A.No.264 of 2007 in O.S.No.357 of 1997. It is an application filed by the plaintiff for issuance of a Commission to ascertain the market value of the property. The suit is one for recovery of possession on the strength of tile and the section applicable is Section 30 of the Court Fees Act. The plaintiff has filed this application to issue a Commission for ascertaining the income of the property because under Section 7(2) of the Court Fees Act, if it is an agricultural land 10 times the annual gross profits of such land where it is capable of yielding annual profits minus the assessment has to be taken as the market value of the agricultural land. Section 7(2) specifically mentions about Section 30 of the Court fees Act as well. Section 19 of the Court Fees Act empowers the court to conduct an enquiry regarding the value of the property by issuance of a Commission as well. The learned Munsiff found that in the document the value shown for the property is rupees one lakh and since the commission application is

filed in the year 2007, one may not be able to assess the market value of the property in 1997. Both the reasonings given by the court are erroneous. In a suit for recovery of possession on the strength of title where it has to be valued under Section 30 of the Court Fees Act, Section 7(2) directly comes into play and when it is an agricultural land it is the income that has to be taken note of and not the market value of the property shown in the document for the purpose of court fee and jurisdiction. Similarly, it is not correct to hold that one may not be able to assess the income derivable from the property about a decade back. The present yield and the approximate age of the trees as in 1997 can be easily found out and the income can be calculated. So, it is only just and proper for the court to issue a Commission in order to find out the particulars required by the plaintiff for the purpose of ascertaining the value of the property for the purpose of court fee and jurisdiction.

Therefore the order under challenge is set aside. The writ petition is allowed and the court below is directed to issue a Commission after fixing the remuneration and also permit the defendants to file work memo before

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the Commissioner to note down any particulars if he so wants.

M.N.KRISHNAN, JUDGE

Cdp/-